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#### OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

March 2, 1976

WhiteHaid

Honorable William E. Colby
Director, Central Intelligence
Agency
Washington, D.C. 20505

Dear Mr. Colby:

At the direction of the President, I am transmitting guidelines for your use in more effectively implementing the Federal Reports Act as outlined in the President's letter of March 1, 1976.

I am also enclosing a copy of revised Attachment A to OMB Circular No. A-40, a copy of supplemental instructions to Standard Form 83 "Request for Clearance" and a copy of a supplemental certification to accompany each request for clearance.

The OMB Associate Director for Management and Operations, Mr. Fernando Oaxaca, will shortly establish a series of burden reduction workshops to more fully explain what is expected of departments and agencies in the fulfillment of the President's objectives and to discuss any problems which departments and agencies may encounter in securing them. Agency planning and actions to achieve these objectives should not wait, however, on participation in these workshops.

Beginning March 8, every request for clearance of a proposed new report, every request for clearance of a revision to an existing report, and every request for continued use of an existing report will be expected to conform to the attached guidelines, to the provisions of revised Attachment A to OMB Circular No. A-40, and to the revised instructions for preparing a request for clearance. I have directed the Clearance Officer of OMB to return any request for clearance which does not meet these requirements.

White House

I would appreciate receiving from you the name or names of those persons in the line of delegation of the responsibilities as defined in the President's letter in order that we may deal effectively and promptly with any problems associated with individual requests for clearance, interpretations of OMB Circular No. A-40, and related matters.

I would also appreciate receiving the names of those who will attend the burden reduction workshops when convened.

For administrative convenience, you may wish to have this information supplied directly to the Clearance Office, Statistical Policy Division, Office of Management and Budget, Stop 20, Telephone 395-4529.

The President has promised the American public early results from this heightened effort to cut paperwork. It is important to remember, however, that this is not to be regarded merely as a "campaign" or "drive," but rather as the first step in a continuing program to reduce the number of forms and minimize the paperwork burden on the American people from Federal Government requirements.

Sincerely yours,

Z. Ky

James T. Lynn

Director

Enclosures

# Approved For Release 2005/07/13 : CIA-RDP79M00467A003100070039-9

# OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

February 10, 1976

CIRCULAR NO. A-40
Transmittal Memorandum No. 1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Revision of Attachment A to Circular No. A-40 "Clearance of Public Reporting and Recordkeeping Requirements Under the Federal Reports Act"

Attached is revised Attachment A, "Clearance of Public Reporting and Recordkeeping Requirements Under the Federal Reports Act."

The purpose of the revision is to: (1) change the definition of "Federal agency" to accord with the amendment to 44 U.S.C. 3502; (2) further define "practical utility" and distinguish it from "potential utility;" (3) require Federal agencies to submit a specific justification for any data collection which is expected to require more than one-half hour of reporting time by individuals or small organizations; (4) require Federal agencies to note whether a report is mandatory or voluntary; (5) require the inclusion of language required by the Privacy Act of 1974 on any form proposed for use to collect information from individuals about themselves; and (6) require agencies to submit, as part of a request for clearance, a statement that the proposed data collection and method of handling of information collected complies with the Freedom of Information Act and the Privacy Act of 1974.

JAMES T. LYNN DIRECTOR

Attachment

Approved For Release 2005/07/13: CIA-RDP79M00467A003100070039-9
ATTACHMENT A
Circular No. A-40
Revised

Clearance of Public Reporting and Recordkeeping Requirements Under the Federal Reports Act

- 1. The following definitions for public reporting are to be used for the purpose of this Circular.
- "Federal agency." An executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government. Exceptions: the Government of the District of Columbia or of any territory or possession of the United States, or any subdivision of such a Government; the General Accounting Office; the Internal Revenue Service, the Comptroller of the Currency, the Bureau of the Public Debt, the Bureau of Government Financial Operations, the Bureau of Alcohol, Tobacco, and Firearms, and the Division of Foreign Funds Control of the Treasury Department; independent Federal regulatory agencies; 1/ and any Federal bank supervisory agency to the extent that such agency obtains reports and information from banks as provided or authorized by law and in the proper performance of its supervisory capacity.
- b. "Information." Facts obtained or solicited by the use of written report forms, application forms, schedules, questionnaires, or other similar methods calling either for answers to identical questions from 10 or more persons other than agencies, instrumentalities, or employees of the United States or for answers to questions from agencies, instrumentalities, or employees of the United States which are to be used for statistical compilations of general public interest (44 U.S.C. 3502).
- 1/ Independent Federal regulatory agencies are: Civil Aeronautics Board, Commodity Exchange Authority, Consumer Product Safety Commission, Equal Employment Opportunity Commission, Federal Communications Commission, Federal Maritime Commission, Federal Power Commission, Federal Trade Commission, Interstate Commerce Commission, National Labor Relations Board, Securities and Exchange Commission, and Federal Energy Administration.

- c. "Person." An individual, partnership, association, corporation, business trust, or legal representative, an organized group of persons, a State or territorial Government or branch, or a political subdivision. In determining whether information is being collected from 10 or more persons, when the primary or principal respondents must obtain from others the same information that is requested of them (e.g., prime contractors obtaining information from their subcontractors), the secondary respondents are also included.
- d. "Plan." Any specific requirement or guide for the reporting of information or the establishment or maintenance of records (including management systems and systems of classification) which are to be used or be available for use in the collection of information; any such requirement or instruction affecting the content, preparation, return, or use of a plan or report form; or any contract or agreement which will result in the collection of information on identical items from 10 or more respondents.
- e. "Report form." Any application or other administrative form, questionnaire, schedule, interview guide, telegraphic request, or other similar device for the collection of information.
- f. A plan or report form is deemed to be "used" by a Federal agency if:
- (1) The agency itself uses the plan or form to collect data, upon identical items, from 10 or more persons, or
- (2) The agency sponsors the employment of the plan or form by others.
- g. "Sponsor." A Federal agency is considered to "sponsor" the collection of information under the following circumstances, subject to the qualifications and explanations indicated herein:
- (1) Collection by a contractor. A plan or report form used by a contractor to a Federal agency is deemed to be sponsored by the agency which awards the contract, except when the data collection is neither required by nor implied by the terms of the contract and no representation of Federal sponsorship or association is made to the respondents.
- (2) Collection by recipient of a grant. A plan or report form used by a recipient of a Federal grant is not deemed to be sponsored by an agency, except when:
- (a) The recipient of a grant represents to respondents that the information is being collected for or in

association with a Federal agency (However, this exception is not intended to preclude mention of Federal support in response to an inquiry, or acknowledgement of assistance from a Federal grant in any publication of the data.); or

- (b) The recipient of a grant uses the plan or report form to collect information that the agency has requested for the planning, operation, or evaluation of its program; or
- (c) The terms and conditions of the grant provide for approval by the agency of the survey design, questionnaire content, or data collection procedures; or
- (d) The terms and conditions of the grant provide for either submission to the agency of the data for individual respondents or the preparation and submission of tabulations requested by the agency.
- organization is requested by a Federal agency to collect specific information to be made available to the agency, the plan or report form or the part thereof used to collect this information must be regarded as sponsored, even though no contract or grant is involved. When a plan or report form is promulgated by a Federal agency as a standard for use by State or local governmental agencies, such a plan or report form is deemed to be sponsored, even though it is not used for reporting to the Federal agency. In the case of doubt as to whether a plan or report form is sponsored, inquiry should be made of the Office of Management and Budget.

### Clearance requirements.

- form (whether repetitive or single-time) is to be used or prescribed by a Federal agency in the collection or recording of information from 10 or more persons without first obtaining clearance from the Office of Management and Budget which will be indicated by inscribing thereon the OMB approval number or notation. Reimbursement of contractors or other persons supplying information does not constitute a basis for exemption from any clearance requirement.
- b. Responsibility of agency sponsoring collection of information. Whenever a Federal agency sponsors the use of a plan or report form by contractors, grantees, or other sponsored collectors of information, it will be that agency's responsibility:

- (1) To inform the sponsored collector of information of the requirements of this Attachment;
- (2) To ensure that the submittal required by paragraph 3a of this Attachment is made; and
- (3) To ensure that the plan or report form is not used without prior clearance.
- form subject to paragraph 2a of this Attachment is to be used after its expiration date without resubmittal to the Office of Management and Budget and prior clearance. Moreover, clearance of any plan or report form subject to paragraph 2a may be withdrawn by the Office of Management and Budget, in which event the use of the plan or report form will be discontinued.

# 3. Request for clearance for new plans and report forms.

- a. Agency plans and report forms. Requests for clearance shall be made by submitting Standard Form 83, "Clearance Request and Notice of Action," prepared in accordance with, and accompanied by, additional materials described in Standard Form 83a, "Instructions for Requesting OMB approval under the Federal Reports Act." (Standard Forms 33 and 83a may be secured from the Federal Supply Service, General Services Administration.) Requests for clearance should be made in time to allow for alequate review and the adoption of any necessary alterations (including coordination or integration with other plans and report forms) without delaying the operating program to which the plan or report form relates.
- b. Standard and optional forms. Standard and optional forms which require Office of Management and Budget approval under 44 U.S.C. 3509 (i.e., public use forms or those which are the basis for statistical compilations of general public interest) should be submitted to the National Archives and Records Service of the General Services Administration, with copies of both Standard Form 152, "Request for Clearance and Procurement—Standard and Optional Forms," and Standard Form 83 (only items 6, 14, 15, and 16 need be completed on Standard Form 83). The National Archives and Records Service will review the proposed forms and will also transmit copies to the Office of Management and Budget.
  - c. Interagency reports. Interagency report forms and requirements which require Office of Management and Budget approval under 44 U.S.C. 3502 (i.e., because the information

to be collected is to be used for statistical compilations of general public interest) should be submitted to the National Archives and Records Service of the General Services Administration with copies of Standard Form 360, "Request for Clearance of an Interagency Reporting Requirement." The National Archives and Records Service will review the proposed forms and requirements and will also transmit copies to the Office of Management and Budget. (Effective July 1, 1973. See Attachment B.)

### 4. Consideration of utility and burden.

- a. To minimize the reporting burden on respondents and to improve governmental efficiency, each Federal agency will consider and determine, in connection with each plan or report form submitted, whether the proposed plan or report form exceeds the limits of reasonable need or practical utility, either with respect to number of respondents, frequency of collection, or number and difficulty of the items, and whether all of the items of information to be furnished or recorded are essential to the central purpose of such plan or report form.
- b. Practical utility (as distinguished from potential utility) also includes the ability of the agency to use the information received. Particular care will be exercised by agencies to insure that, need for information notwithstanding, there are no limitations in staff, in capability to process the information in a timely and useful fashion, or other constraints on the likely use of the information. Otherwise there is no practical utility and the information should not be collected.
- c. Special consideration will be given to the burden on individuals, small businesses, and other organizations with limited clerical, financial management, and statistical staffs which employ fewer than 100 persons. Individuals, small businesses, or other small organizations should not be called upon to spend more than one-half hour in responding to a request for information from a Federal agency. Agencies will be expected to make a specific justification for any data collection plan or instrument which requires more than one-half hour from these respondents.
- d. Dollar costs associated with the development and processing of a public reporting requirement will be treated as an internal reporting cost of the agency collecting the information.

5.	Mandatory	and	voluntary	reports.	

- a. Except for applications and reports filed by recipients of Federal benefits, each report subject to the provisions of the Federal Reports Act and of this Circular will carry on its face one of the following statements:
- (1) "This report is required by law (\_\_\_\_\_\_; E.O.\_\_\_\_; C.F.R.\_\_\_\_). Failure to report can result in (cite penalty)." The penalty should be cited in plain language along with the appropriate legal citation.
- (2) "This report is authorized by law ( U.S.C. ; E.O. ; C.F.R. ). While you are not required to respond, your cooperation is needed to make the results of this survey comprehensive, accurate and timely." An agency may propose the use of alternative language providing there is no change in the substance of the message.
- b. Each application subject to the provisions of the Federal Reports Act and of this Circular shall carry on its face the following statement:
- (1) No may be unless a completed application form has been received (U.S.C.; E.O.; C.F.R.). (Examples: No grant may be awarded.... No passport may be issued....)
- c. Reports filed by recipients of Federal benefits shall carry the following statement (unless reporting is not required, in which case the statement contained in paragraph 5a(2) shall be used):
- d. In those cases in which the information is collected by personal interview (either in person or by telephone), the respondent shall be informed as to whether the information sought is required by law or is voluntary and he shall be furnished with the appropriate statement upon request.
- 6. <u>Information collected from individuals</u>. In addition to informing respondents as to the mandatory or voluntary character of the response to a report, each report requesting information from individuals must include the following information required by the Privacy Act of 1974 (5 U.S.C. 553a(e)(3)):

- a. The principal purpose or purposes for which the information is intended to be used.
- b. The routine uses (as defined in 5 U.S.C. 552a(a)(7)) which may be made of the information.
- 7. Request for clearance for revised plans and report forms. Before a material revision or change is made in an approved plan or report or in the use thereof, further clearance must be obtained from the Office of Management and Budget in the manner prescribed in the relevant subparagraph of paragraph 3. A material revision or change in a plan or report form or the use thereof, necessitating further clearance, will include (a) any modification in the kind or amount of information sought, (b) any change in the type of respondents or the survey coverage, (c) any change in the timing or frequency of reporting, (d) any other change in the sample design or collection method, or (e) a change in the purpose for which the data are collected.
- 8. Request for extension of clearance. If use of a plan or report form beyond a scheduled expiration date is desired, without material revision or change, the request for an extension of approval will be made on Standard Form 83 or by such other means as may be prescribed.
- 9. Exemptions. The following types of forms and reporting requirements are exempted from the requirement of approval under 44 U.S.C. 3509:
- a. Affidavits, oaths, certifications, notices of change of address, and forms used for acknowledgment or receipt of articles or services which require no information other than that necessary to describe the article or service and identify the person or persons making the acknowledgment or receipt.
- b. Forms calling for technical information incident to the design, production, or operation of contract items, such as engineering drawings, specifications and standards, parts breakdown lists, catalog items identifications, or descriptions of physical qualities and characteristics. ("Technical information" does not include financial, administrative, cost and pricing, management and management planning data, or other information incidental to contract administration.)
- c. Collection of information for identification or classification in connection with Laboratory research and clinical investigations.

- d. Tests or examination given individuals for the purpose of determining knowledge, abilities, or aptitudes of the person tested, and the collection of information for identification or classification in connection with such tests.
- e. Requests for information in connection with a particular proceeding which arise out of judicial and quasi-judicial actions, such as proceedings before hearing examiners or administrative law judges.
- f. Those specifically exempted by the Office of Management and Budget because they do not call for information of substantial volume or importance.
- 10. Deviation from terms of clearance. No deviation is to be made in the use of any plan or report form from the terms and conditions on which clearance has been granted.
- 11. Notice of discontinuance. Whenever the use of a plan or report form for which clearance has been given is to be discontinued, except by expiration of a time limit fixed by the Office of Management and Budget, the Clearance Officer, Statistical Policy Division, Office of Management and Budget, is to be notified by the responsible agency at least 30 days in advance.
- 12. Reports. Each Federal agency will provide the Clearance Officer such information concerning the status and use of its report forms as may be requested.

# 13. Exercise of authority.

- a. Determination of scope. The determination of the Director as to whether any plan, report form, activity, or other matter is within the scope of the Act or this Circular will be controlling.
- b. <u>Waivers</u>. Any provision of this Circular may be waived in writing by the Director except for those requirements applicable to the collection of personal information specified in the Privacy Act of 1974.
- c. Delegation of Director's authority. The authority conferred by the Federal Reports Act on the Director may be exercised by his designee to the extent necessary or appropriate for the performance of any function or duty prescribed by this Circular.

- 14. Relation to existing authority. This Attachment will not be deemed to limit or preclude exercise of the authority vested in the Office of Management and Budget by Executive Orders 8248, 10033, 10253, or otherwise, to plan and promote the improvement, development, and coordination of Federal and other statistical services.
- 15. Relation to Freedom of Information Act and Privacy Act of 1974. This Attachment does not limit nor does it expand the rights of individuals or other persons nor does it limit the responsibilities of agencies under the Freedom of Information Act or the Privacy Act of 1974. Agencies will be required to submit, as a part of any request for clearance of a request to collect information from the public, a statement that the proposed collection and method of handling and storing the information proposed to be collected complies with the Freedom of Information Act, the Privacy Act of 1974, and OMB Circular No. 108.

# Supplemental Instructions for Completion of Standard Form 83

# "CLEARANCE REQUEST AND NOTICE OF ACTION"

Standard Form 83, "Clearance Request and Notice of Action" has been revised, but the printed copies of the revision are not yet available.

The revised form includes a new certification. Until the revised form is available, each request for clearance must include a supplemental certification to be signed by the approving official for the agency and the agency clearance official. The required supplemental certification reads as follows:

# Certification by Authorized Officials Submitting Request

We certify that the form or other document submitted for approval is necessary for the proper performance of the agency's functions, that the proposed data collection represents the minimum burden on respondents consistent with the need for information, that the information collected is not available from any other source, to the best of our knowledge, that the collection instrument contains no hidden identifiers, that the request complies with the requirements of the Freedom of Information Act and the Privacy Act of 1974, and is consistent with applicable O.M.B. and agency policy directives.

Revised instructions for completing Standard Form 83 include a new paragraph in the instructions for the preparation of a justification for a new or revised reporting form:

(4) If the average number of reporting hours required per response is greater than one-half hours and if respondents are individuals or small organizations employing fewer than 100 persons, show specifically why the needed information cannot be obtained with no more than 30 minutes of the respondent's time.

Each request for clearance submitted after March 8, 1976 must include this special justification if applicable.

# GUIDELINES FOR REDUCING PUBLIC REPORTING TO FEDERAL AGENCIES

# I. GUIDELINES FOR IMMEDIATE ACTION

Objective: By June 30, 1976, to reduce by 10% the number of reports required from the public by Federal agencies.

- A. No request for clearance of a new report is to be made unless:
  - (1) the report is specifically required by law, or
  - (2) the report is required to obtain information specifically requested by Congress, or
  - (3) the request for clearance of the proposed new report is accompanied by a request for the elimination of an existing report. The elimination of an existing single-time report is not acceptable as an offset to the introduction of a repetitive report
  - (4) an exception is granted per guideline I-D.
- B. No request for clearance for the continued use of an existing report is to be made unless:
  - (1) the report is specifically required by law, or
  - (2) the request for clearance is accompanied by a request for the elimination of an existing report. The elimination of an existing single-time report is not acceptable as an offset to the continued use of a repetitive report
  - (3) an exception is granted per guideline I-D.
- C. These guidelines remain in effect for a department or agency until such time as the aggregate number of reports used by all the departments or agencies is at least 10% below the number of reports approved for use

as reported in the OMB inventory of approved reports for October 31, 1975. The Director of the Office of Management and Budget will determine when the objectives sought by these guidelines are met.

- D. If the head of a department or agency determines that there is no approved report which can be eliminated in order to meet the requirements of A(3) or B(2) above, he may request an exemption from these guidelines by certifying his determination to the Director of the Office of Management and Budget. It is intended that this determination certification and request for exemption be made by the head of the department or agency and not by any person to whom he has delegated his clearance authority.
- E. If an exemption is granted by the Director, it will apply only to a specific request for clearance. A separate determination, certification, and request for clearance must be made for each case for which an exemption is sought.

## II. GUIDELINES FOR CONTINUING USE

Objective: To ensure that the information gathering activities of Federal agencies impose a minimum burden on the public consistent with the government's need for information.

These guidelines relate to all information-gathering activities subject to the provisions of the Federal Reports Act. They are supplemental to the requirements of OMB Circular No. A-40 and to the instructions for completing a Clearance Request (SF 83). They are stated as guidelines for types of forms or documents as set forth in question 6 of the Clearance Request.

A. Applications. No request for clearance of a new application form or for the continued use of an existing application form will be granted for forms which contain anything other than the information necessary to determine (1) whether the applicant is eligible to receive the benefit applied for or (2) the amount of benefit to which an eligible applicant is entitled.

Where narrative statements are required as part of an application, reporting instructions are to be explicit as to what is needed.

An agency which requires the name or names of project directors/principal investigators (and information on their staffs) as part of an application is required to present a specific justification for such information in its request for clearance under the Federal Reports Act and to describe the consequences of not receiving it.

- B. Program evaluation. Reporting and data collection required for program evaluation must directly contribute to the assessment of the degree to which program goals have been achieved or to the assessment of the effects of programs or their processes or management. Acquisition of large amounts of descriptive data not directly relevant to these purposes is to be avoided.
- Other management reports. No report is to be required of an employer of fewer than 100 employees unless the report is specifically required by law or unless the report is consequent to a benefit received.

Grant-in-aid reporting shall be required only of the grant recipient. Reports from subgrantees, projects, or ultimate beneficiaries is not to be required unless specifically required by law.

- D. Statistical surveys or reports. No statistics program which collects information annually or more frequently shall be designed to produce geographic detail below national totals for the United States unless:
  - (1) the information is required by law more frequently than would be provided by a census and
  - (2) cannot be obtained from existing administrative records or
  - (3) the data collection is an integral part of a specific Federal-State cooperative program or of a specific Federal-Local government cooperative program.

Federal agencies are not to engage in any data collection activities which are not financed wholly by Federal funds, except data collection which is undertaken as a consequence of cooperative efforts with State and/or local governments.

It is expected that data collections for statistical purposes will have a response rate of 75%. Proposed data collections having an expected response rate of less than 75% require a special justification. Statistical data collection activities having a response rate of under 50% should be terminated. Proposed statistical data collection activities having an expected response rate of less than 50% will be disapproved.

An agency will make sure that no individual and no employer of fewer than 100 is included in more than one of its statistical samples at the same time.

- E. Other. Data collection activities for research purposes will be approved only if (1) they test a stated hypothesis or (2) they are part of an investigation designed to discover new facts or principles in a specified area of knowledge. The anticipated benefits expected from the data collection and the consequences of not engaging in the proposed data collection are to be specified.
- F. Exceptions to guidelines. The head of a department or agency may request an exception to any of these guidelines. A request for such an exception may be made only by the head of the department or agency and may not be made by any one to whom clearance responsibilities may be delegated. A request for exception must describe why the particular exception sought is necessary to the proper performance of the department's or agency's functions.

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#### THE WHITE HOUSE

WASHING"ON

March 1, 1976

Dear Mr. Director:

In recent months, I have publicly expressed concern about the number of government forms in existence and the heavy burden they place on individuals, employers, and State and local governments. I am charged with responsibility for achieving the purposes of the Federal Reports Act (44 U.S.C. 3501-3512). The purposes of that Act are clear and simple: to allow necessary information to be obtained by the Federal Government with minimum burden on the public.

American citizens are understandably exasperated by the complexity of reporting to the Federal Government. To put it bluntly: Regardless of how necessary a program administrator or agency head may believe reports to be, the American people believe that they are too many, too long, too frequent, and take too much time to fill out. We simply have to reduce the Federal Government's reporting burden on the public.

To improve our overall performance, I direct you to assume personal responsibility for achieving the purposes of the Federal Reports Act, insofar as your agency is concerned. In the delegation of your authority, with respect to this responsibility, the line of delegation must be unambiguous and run directly to yourself. I regard this as a critical organizational step to assure continuing and effective attention to controlling and reducing the heavy public impact from governmental data collection.

I have directed the Director of the Office of Management and Budget to develop and transmit to you immediately following this letter a series of criteria for your use in reducing the number, length, frequency, and time required to complete reports to the Federal Government.

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I expect prompt results from this effort. Specifically, I expect the number of reports which collect information from the public to be reduced at least 10 percent by next June 30. Further, I expect you to undertake a continuing effort to reduce the burden of governmental reporting.

These are important first steps toward developing a strong and permanent sense of responsibility in all departments and agencies to protect the American people from unnecessary expenditure of time and money in order to satisfy our information requirements.

Finally, I expect that the Executive Branch will cooperate fully with the Commission on Federal Paperwork in its efforts to address these matters more broadly.

I anticipate your wholehearted and effective compliance in securing these goals.

Sincerely,

The Honorable George Bush

Director of Central Intelligence

Gerald R. Ford

Washington, D.C. 20505

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Remarks:

Please provide DCI with a note on the applicability of the attached.

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